In an action of tort for damages suffered, *held,* defendant was not liable. *Jacobs* v. *Childs Co.* (1917), 166 N. Y. Supp. 798.

As was said by the court in the principal case, an examination of the authorities does not reveal any case involving the precise point contained above, but an examination of the facts and decision in the instant case would seem to indicate that the court overlooked a vital point, in reaching its conclusion. As authority for its decision, the court cites the case of *Hasbrouck* v. *Armour & Co.,* 139 Wis. 357, 121 N. W. 157; but the question involved in the instant case was not present in the Wisconsin case at all. In the latter case, plaintiff, while washing her hands, was injured by a needle imbedded in the cake of toilet soap she was using, which soap she had purchased from a retail dealer, who had in turn purchased it from Armour & Co., manufacturer of the soap, from whom plaintiff sought damages. The court there held that the plaintiff was not entitled to recover from Armour & Co., on the ground of negligence, because there was no such privity between the parties as to give rise to any duty owed to plaintiff by the defendant, of which there had been a breach. In the principal case, however, there was a privity between the parties,—a privity of contract. The article sold to the plaintiff by the defendant was one which the latter had made itself, and the court seems to have overlooked that fact in its application of the doctrine of remoteness. It is true that the rule has been laid down that the vendor of an article not inherently dangerous in character is not liable to one, not a party to the contract of sale, who is injured because of defects in the dangerous construction of the article. See *Bragdon* v. *Perkins-Campbell Co.,* 87 Fed. 109, 30 U. S. C. C. A. 567; *Salmon* v. *Libby, McNeil & Libby,* 114 Ill. App. 258; *Huset* v. *J. I. Case Threshing Mach. Co.,* 120 Fed. 865, 57 U. S. C. C. A. 237. That was the rule followed, and no doubt rightly followed, in the *Armour* case; but the presence of a privity of contract between the parties in the principal case would seem to give rise to a different question; viz., whether, due to the privity of contract between the parties, a duty was not created which was violated, and the breach of which gave rise to a cause of action in tort. That question seems to have been entirely overlooked.

WILLS—IRREVOCABLE.—A bill in chancery prayed that probate of a will be revoked and a later will admitted to probate. *Held,* on demurrer, that the suit should be dismissed on the ground that by probating the will the testator had renounced the right to make a later will, the probated will being in these words: "I do hereby bargain, sell and convey to my said husband all the property I now own or may acquire prior to my death, and agree that this is to take effect only in case of my death prior to that of my husband." *Walker* v. *Yarbrough* (Ala. 1917), 76 So. 390.

In justification of this decision the court says in part: "It is therefore clear from these authorities that one may, for a valuable consideration paid to him, renounce his absolute power to dispose of his estate at pleasure. * * * But it must be conceded that the former instrument was binding in its contractual feature, and that therefore the respondent should be entitled to relief by way of cross-bill, and the contractual feature of the instrument en-

forced by the establishment of a trust upon all the property owned by the testatrix at the time of her death. * * * The result therefore, would be that the court would sustain the contention of the complainants to set aside the will in favor of the respondent Walker, and in the same decree enforce the will by way of establishing a trust in favor of said Walker, upon the entire estate owned by her at the time of her death. We respectfully submit that this would be an anomalous situation in judicial procedure." McCLELLAN, J., dissented from the decision on the ground that the instrument was on its face merely contractual, and under no circumstances entitled to probate. The first contention of the majority of the court that a man can for a valuable consideration renounce his power to make a will, is believed to be absolutely unsupportable by authority. The right to alienate is an inseparable incident of ownership. This doctrine has not been seriously disputed since *Mildmay's Case* (1605), 6 Coke 40. The cases are reviewed in a note in 14 MICH. L. REV. (Feb., 1916), p. 353. It is believed there is no case sustaining the contention that a person can by contract deprive himself of his legal right to make a will; but he certainly can by contract dispose of his property, both that then owned, and by way of estoppel that later to be acquired; so that when he later makes a will there will be no property for it to operate on. However, the question as to whether there is any property to pass by the will, what or how much, is not a question as to the validity of the probate. The peculiarity of the instant case is that the contract made by the deceased, which contains no suggestion of the testamentary intention, had been admitted to probate as a will; and when the proponent of the later will sought to have that probate annulled, it was manifest to the court that to grant his prayer would secure him nothing and only lead to useless litigation. The decision seems entirely justifiable on the ground that the court will not do a vain thing.

WORKMAN'S COMPENSATION ACT—"PERSONAL INJURY"—OCCUPATIONAL DISEASES.—X, an employee in a cigar factory, was incapacitated through neurosis which resulted from a bending "with shoulders forward,' so as to induce "pressure on the brachial plexus," after being so employed twenty-five years. The lower court granted compensation under the WORKMAN'S COMPENSATION ACT (St. 1911, c 751, Mass.), and the insurer appealed. *Held,* that a disease which arises within the course of employment with nothing more is not within the ACT. *In re Maggelet* (Mass. 1917), 116 N. E. 972.

While the question decided in this case follows the rule laid down by the courts generally, it is of interest in showing the limitation which the Massachusetts court has placed upon its earlier decisions holding that certain occupational diseases were personal injuries within the meaning of the WORKMAN'S COMPENSATION ACT. See 14 MICH. L. REV. 525. In the principal case the court says, "The words 'personal injury' in their connection in this statute do not naturally lend themselves to a situation such as that here disclosed. The ACT relates to industrial conditions * * * The ACT does not mention disease or occupational disease." In *Hurle's Case,* 217 Mass. 223, 104 N. E. 336, the same judge speaking for the court, said, "It